

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

PLANNED PARENTHOOD OF	§	
GREATER TEXAS FAMILY PLANNING	§	
AND PREVENTATIVE HEALTH	§	
SERVICES, INC., et al.,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	Civil Action No.1:15-cv-01058-SS
	§	
CHARLES SMITH, et al.,	§	
	§	
Defendants.	§	

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**JOINT MOTION FOR AN ORDER AUTHORIZING THE DISCLOSURE AND  
USE OF ABORTION-RELATED DOCUMENTS, INFORMATION, AND DATA**

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Plaintiffs Planned Parenthood of Greater Texas Family Planning and Preventative Health Services, Planned Parenthood San Antonio, Planned Parenthood Cameron County, Planned Parenthood Gulf Coast, Planned Parenthood South Texas Surgical Center, Jane Does Nos. 1-10, and Defendants Charles Smith, Executive Commissioner of the Texas Health and Human Services Commission, in his official capacity, and Stuart W. Bowen, Jr., Inspector General of the Texas Health and Human Services Commission, in his official capacity, jointly move this Court for entry of an order authorizing the disclosure and use of certain abortion-related documents, information, and data, pertaining to Provider Plaintiffs or other Planned Parenthood providers only, that are subject to state law confidentiality requirements, for the limited purpose of the preliminary injunction hearing to be held on January 17-19, 2017 (“PI Hearing”). In support thereof, the Parties state as follows:

1. The Texas Health and Safety Code provides licensing and reporting requirements for all abortion facilities located in the State of Texas. TEX. HEALTH & SAFETY CODE § 245.001 *et seq.* and § 108.001 *et seq.*

2. Under these provisions, all information and records held by the Texas Department of State Health Services (“DSHS”) are confidential and “may not be released or made public on subpoena or otherwise” except by consent of the person or abortion facility identified. *Id.* at § 245.001(d) and § 108.013(c)-(f); *see also* 25 TEX. ADMIN. CODE § 139.4(d).

3. A person may be subject to criminal penalties for violation of these provisions. TEX. HEALTH & SAFETY CODE §§ 108.013(d), 245.011(e).

4. Certain abortion-related documents, information, and data—subject to this protection—are or may become relevant to the Court’s determination in this matter. But, in light of the above-cited confidentiality provisions, the Parties are unable to disclose or use the necessary documents, information, and data without an order from the Court.

5. Hence the Parties respectfully request that the Court issue an order authorizing the production and use of certain abortion-related documents, information, and data, pertaining to Provider Plaintiffs or other Planned Parenthood providers only and for the limited purpose of the PI hearing subject to the Parties’ proposed agreed protective order.

6. The state-law confidentiality provisions do not preclude such an order. In two similar lawsuits, the Honorable Judge Lee Yeakel issued comparable orders authorizing the requested disclosure and use of abortion-related documents,

information, and data notwithstanding the above-cited provisions. *See* Order Authorizing Disclosure and Use at Trial of Abortion Induction and Complications Reports of Facility Plaintiffs, ECF No. 86, *Planned Parenthood of Greater Texas v. Abbott*, 13-CV-862 (W.D. Tex. Oct. 21, 2013); Order Granting Joint Motion for Order Authorizing the Disclosure and Use of Abortion-Related Documents, Information, and Data, ECF N. 64, *Whole Woman's Health, et al. v. David Lakey, et al.*, 14-cv-284 (W.D. Tex. May 30, 2014).

7. The interest in authorizing the disclosure and use of these types of documents, information, and data is particularly significant in this action and furthers essential litigation purposes.

8. Regardless of any necessary disclosure of protected information, the Parties share an interest in maintaining its confidentiality. As above-noted, the Parties seek entry of a protective order. Under this protective order, the requested documents, information, and data shall be handled as “classified information.”

9. The Parties have conferred and no party opposes the requested relief sought herein.

Wherefore, the Parties respectfully request that the Court issue an order authorizing Plaintiffs and Defendants, including their employees, agents, experts, and representatives, to disclose and use in this litigation certain confidential documents, information, or data as described above collected in accordance with sections 245.001 *et seq.* and 108.001 *et seq.* of the Texas Health and Safety Code that may otherwise be protected from disclosure.

Dated: January 4, 2017

Respectfully submitted.

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**CERTIFICATE OF SERVICE**

I certify that on January 4, 2017, this document was served through the Court's CM/ECF Document Filing System or through e-mail, upon the following counsel of record:

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